

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A. NO. 219 OF 2009

Monday, this the 6th day of July, 2009.

CORAM:

HON'BLE Dr.K.B.S.RAJAN, JUDICIAL MEMBER

(By Advocate Mr. TCG Swamy)

versus

1. Union of India represented by the General Manager
Southern Railway
Headquarters Office, Park Town P.O
Chennai - 3
2. The Divisional Railway manager
Southern Railway, Trivandrum Division
Trivandrum - 14
3. The Divisional Personnel Officer
Southern Railway, Trivandrum Division
Trivandrum - 14

(By Advocate Mr. Sunil Jose)

The application having been heard on 06.07.2009, the Tribunal on the same day delivered the following:

ORDER

HON'BLE Dr.K.B.S.RAJAN, JUDICIAL MEMBER

The applicant has sought the following reliefs through this OA:-

(i) Declare that the applicant is entitled to be considered for regular absorption as Group 'D' employee in the Trivandrum Division of Southern railway without any age restriction in preference to persons with lesser service than the applicant and direct the respondents accordingly;

(ii) *Direct the respondents to grant the applicant the benefit of such absorption on par with his juniors, including arrears of pay and allowances arising therefrom.*

2. It is briefly stated that the applicant has rendered more than 360 days service as casual labourer. By virtue of the above, he is eligible for regularization. Since the respondents did not consider his case for regularization he has approached this Court with the above relief sought for. In support of his case, the applicant has annexed, Annexure A-2 judgment of the Hon'ble High Court of Kerala in a batch matter (W.P(C) 3246/06 and others) wherein, the Hon'ble High Court has upheld the decision of the Tribunal that age limit prescribed as per circular No.E.(NG)II-99/CL/19 dated 28.02.2001 and of even number dated 20.09.2001 will not be applicable to the casual labourers who have completed 360 days service.

3. Respondents have filed their reply wherein the facts contained in the OA have not been disputed. However, they have stated that the judgment of the Hon'ble High Court of Kerala in W.P.(C) No.21777/07 (referred to above) is under challenge before the Apex Court as the subject matter involved therein is policy in nature. It has also been stated in the reply that even if there is a positive direction it is subject to fulfilling other conditions for re-engagement/absorption like medical fitness, identity of person, verification of records, character and antecedents etc.

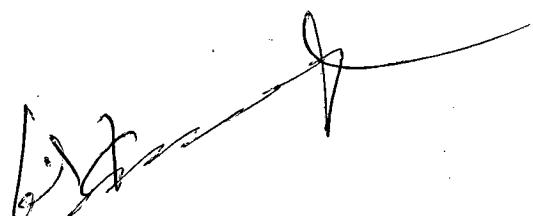
4. Counsel for applicant submitted that since the case is covered by similar matters already decided, as upheld by the Hon'ble High Court referred to above, this OA may be allowed. Counsel for respondents submitted that the fact the Hon'ble Supreme Court has been approached

against the Hon'ble High Court's judgments may be kept in view while passing any orders.

5. Arguments were heard and documents perused. The applicant has put in 67 1/2 days of casual labour service as per Annexure A-1. This has not been disputed, rather it has been admitted in para 5 of the reply. As such, his case squarely falls under that category for which age limit shall not be applicable. Hence as in other cases, this OA is also allowed and the respondents are directed to afford the same benefits to this applicant as they have granted in respect of applicants in OA 271/06 and other applications referred to in the common judgment (Annexure A-2) of the Hon'ble High Court of Kerala. In the order that may be passed, it may be stipulated that the same is subject to the outcome of the pending matter before the Apex Court.

6. The time schedule calendered for compliance of this order is four months from the date of communication of a copy of this order. No costs.

Dated, the 6th July, 2009.



Dr.K.B.S.RAJAN
JUDICIAL MEMBER

vs